REMARKS

Claims 18-36 are pending in this application. Claims 18, 34, and 35 have been amended. Support for the amended claims may be found in the specification thus no new matter has been introduced.

Rejections Under 35 U.S.C. § 103

Claims 18-36 have been rejected under 35 U.S.C. §103(a) as being unpatentable over US Patent No. 5,869,072 (hereafter "Berry") in view of US Publication No. 2001/0006680 (hereafter "Mansouri") and US Patent No. 4,920,158 (hereafter "Murray"). Applicants respectfully disagree with this rejection.

Berry describes a therapeutic appliqué for treatment of dry skin, especially skin of the hands. The appliqué is a porous, flexible sheet that has a water-activatable material (*e.g.*, aloe vera) on its surface. The water-activatable material is contained in a layer of dried polyvinyl alcohol. Application to the skin in the presence of water allows the water-activatable material to leech out of the appliqué onto the skin.

Mansouri describes skin moisturizing products and methods of use thereof. The compositions can contain an "absorption enhancer" that promote the absorption of materials applied to the skin. Mansouri discloses that the moisturizing compositions describe can be used with latex gloves (see, *e.g.*, paragraph 16 of Mansouri).

Murray describes a hydrogel-forming wound dressing or skin coating material comprising a first hydrophilic polymer (*i.e.*, acrylic acid, methacrylic acid, itaconic acid, malic acid, 3-butene-1,2,3-tricarboxylic acid) and a second hydrophilic

polymer (*i.e.*, a polymer capable of interacting with the first polymer to produce a hydrogel such as polyethylene oxide and propylene oxide).

The Examiner alleges that Berry teaches a glove that has a dry coating on its skin-contacting surface that is hydratable. There is no disclosure in Berry of a polyhydric alcohol moisturizer or an alphahydroxy lactone. However, the Examiner contends that one skilled in the art would take the teaching of Mansouri (*e.g.* that aloe vera and panthenol are known equivalent moisturizer/anti-inflammatory agents) and Murray (*e.g.*, that propylene glycol and gluconolactone are equivalent plasticizers) as compositions that are equivalent and therefore substitute them into the compositions of Berry.

Berry does not describe an elastomeric article or a glove comprising an elastomeric layer. Neither Mansouri nor Murray remedy this deficiency. Additionally, Berry only teaches the use of polyvinyl alcohol as a barrier. However, the Examiner has deemed aloe vera and pantothenol (a polyhydric alcohol) to be "known equivalents in the field of moisturizers/anti-inflammatory agents, as taught by Mansouri." Mansouri does not teach the use of aloe vera as a moisturizer. Mansouri teaches the use of aloe vera as an anti-inflammatory agent (see, *e.g.*, paragraphs 117-118 of Mansouri).

Applicants respectfully submit that moisturizers and anti-inflammatory agents are completely different products in unrelated fields; there is no "field of moisturizers/anti-inflammatory agents." Mansouri does not teach the use of aloe vera as a moisturizer. Therefore, it does not teach that aloe vera and pantothenol (a polyhydric alcohol) are known equivalents as moisturizers.

Furthermore, Applicants respectfully submit that there would be no motivation to combine Berry and Mansouri because Berry teaches away from Mansouri. Berry teaches that antibacterial chemicals can irritate the skin (see, *e.g.*, col. 2, lines 34-40). However, the moisturizing compositions described in Mansouri includes "one or more antimicrobial agents, to prevent the transmission and spread of pathogenic or potentially pathogenic microorganisms." (see paragraph 10 of Mansouri). Thus, Berry teaches away from Mansouri.

Additionally, both the inventions of Berry and Mansouri have significant disadvantages in medical glove applications. Berry discloses a porous mesh material that would not be effective as a protective medical glove. As to Mansouri, one of skill in the art would know that the ingredients disclosed are not advantageous for a medical glove because they are either powdery or temperature sensitive.

Claims 19-22 have been rejected under 35 U.S.C. §103(a) as being unpatentable over berry in view of Mansouri, Murray, and US Patent No. 5,357,636 (hereafter "Dresdner"). Applicants respectfully disagree with this rejection.

Dresdner describes a thin flexible medical glove having an outer layer and an inner layer with a compartment in between the two layers that holds a non-liquid antiseptic solution. Such a glove is purported to be useful in wear protection from infection from an microbe containing object that punctures the glove.

Applicants contend that Dresdner's disclosure of medical gloves does not cure the deficiencies of Berry, Mansouri, and Murray with respect to the claimed

invention. A motivation to combine the compositions of Mansouri and Murray as the skin moisturizer on Berry's appliqué is still missing.

Claims 30 and 36 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Berry in view of Mansouri, Murray, and US Patent No. 6,001,367 (hereafter "Bazin"). Applicants respectfully disagree with this rejection.

Bazin describes an anti-wrinkle composition comprising a natural polymer that is capable of forming a steam permeable film. The natural polymer can be chitin and its derivatives such as chitosan.

Applicants point out that there must be a motivation to combine two or more references. A mere mention of one component of the coating composition of the present invention is not sufficient to form the basis of an obviousness rejection. One skilled in the art would not read Berry and be directed to use anti-wrinkle compositions as described in Bazin.

A finding of obviousness under 35 U.S.C. § 103 requires a determination of the scope and the content of the prior art, the differences between the invention and the prior art, the level of the ordinary skill in the art, and whether the differences are such that the claimed subject matter as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made. *Graham v. Deere*, 383 U.S. 1 (1966). The relevant inquiry is whether the prior art suggests the invention, and whether one of ordinary skill in the art would have had a reasonable expectation that the claimed invention would be successful. *In re O'Farrell*, 853 F.2d 894, 902-4 (Fed. Cir.

1988); *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q. 2d 1438 (Fed. Cir. 1991). Both the suggestion of the claimed invention and the expectation of success must be in the prior art, not in the disclosure of the claimed invention. *In re Dow Chemical Co.*, 5 U.S.P.Q. 2d 1529 (Fed. Cir. 1988).

The claims have been amended to more particularly point out the claimed invention – namely - an elastomeric article comprising both an elastomeric layer and a separate coating layer wherein the coating layer comprises at least one polyhydric alcohol moisturizer and at least one alphyhydroxy lactone. The cited art, even taken together, does not such an article.

In view of the foregoing, applicants respectfully request that the rejections under 35 U.S.C. § 103 are withdrawn.

CONCLUSION

Applicants have not independently addressed the rejections of the dependent claims. Applicants submit that for at least similar reasons as to why the independent claims from which the dependent claims depend are believed allowable as discussed *supra*, the dependent claims are also allowable. Applicants, however, reserve the right to address any individual rejections of the dependent claims should such be necessary or appropriate.

Applicants respectfully request that the amendments and remarks made herein be entered and made of record in the file history of the present application. Withdrawal of the Examiner's rejections and a notice of allowance are earnestly

requested. If any issues remain in connection herewith, the Examiner is respectfully invited to telephone the undersigned to discuss the same.

AUTHORIZATION

The Commissioner is hereby authorized to charge any fees which may be required for consideration of this Amendment to Deposit Account No. 13-4500, Order No. 2877-4040.

Respectfully submitted,
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